IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2485 OF 2004

Dr.Harihar Visnupant Kumbhojkar...Petitioner
Vs.
Shivaji University, Kolhapur & Anr..Respodnents

Mr. A.V. Anturkar with Mr. S.P. Pawar, for the Petitioner
Mr. R.G. Ketkar, for Respondent No.1.
Mr. R.M. Patne, AGP for Respondent No.2.

CORAM: F.I. REBELLO & S.P.KUKDAY, JJ.
DATE : 18th March, 2005

P.C.

. This is the third petition by the petitioner. He had earlier filed Writ Petition No.1349 of 1990 which came to be disposed of by order dated 3rd August, 2001. This Court based on the letter dated 20th February, 1997 issued directions which included that appointment made be effective after withdrawal of the Writ Petition. The University was to recommend petitioner's case to the Government for grant of all the past benefits from 1989. However, the University was not be responsible or liable for the same in the event of the refusal of the same by the State Government. The judgment also records that the petitioner was appointed as Professor of Mathematics with effect from 1st April, 1997 and in so far as grant of past benefits it was directed that the respondent Nos. 1 to 3 will recommend the case of the petitioner to the Government. The State Government was directed to consider the recommendation. It appears that the State Government did not accept the recommendation, pursuant to which the second petition came to be filed being Writ

Petition No.6662 of 2002. That petition came to be disposed of by order dated 13th January, 2003. By that order the State Government was directed to reconsider the matter in the light of the observations made in the judgment. Subsequent to that the State Government issued a letter dated 16th August, 2003. By that letter the State Government did not accept the contention of the petitioner for backwages and consequential benefits, but observed that the action taken by the University from time to time in respect of the appointment of the petitioner had been done by the University and as such the University should pay the petitioner from their own funds the actual amount from June, 1989 to 31st March, 1997. It was noted that the petitioner for that period had not worked at all on the post.

2. By the present petition the petitioner has sought relief against the University to comply with the directions of the State Government as contained in the letter dated 16th August, 2003. It is contended on behalf of the petitioner that once the State Government has issued the direction the Respondent University is bound to pay the amount.

3. On behalf of the respondent University it is pointed out that nowhere had they agreed to make payment with retrospective effect. On the contrary in the offer of 20th February, 1997 it was set out that the University will recommend the case of the petitioner to the Government. There is, however, a

letter dated 31st March, 1997 written by the petitioner to the University in which they have annexed the consent terms. Even there what is mentioned is that the University shall recommend to the Government of Maharashtra for grant of all the past wages and benefits due to the petitioner.

. The question is whether any relief can be granted to the petitioner in view of the letter of the Government dated 16th August, 2003. From the letter of appointment it is clear that the petitioner was appointed with effected from April 1, 1997. In other words the appointment as Professor was from 1st April, 1997. The only sentence in the letter dated 1-4-1997 regarding past benefits was as under:-

> "Regarding your request for other retrospective benefits (with effect from 17.6.1989) your case will be recommended to the State Government."

In other words the letter of 1st April, 1997 at no point of time held out that the University would make payment to the petitioner for a period previous to 1st April, 1997. The petitioner accepted the said letter of appointment and was appointed as Professor.

4. As such in the absence of any statutory provisions whereby a teacher appointed from a specific date can be directed to be paid from a date on which his selection was made but appointment not

given, it will not be possible to grant any relief. Selection is not appointment. It is merely consideration of the petitioner for being appointed by the appointing authority pursuant to the selection process made by the selection committee. For whatever reasons selection was delayed the fact remains that the appointment was done only with effect from 1st April, 1997. In so far as the Government is concerned, it only reimburses the University the salary grant and the other benefits after an appointment.

5. For all the aforesaid reasons we find no merit in this petition, which is accordingly rejected.

(F.I. REBELLO, J.)

(S.P. KUKDAY, J.)